

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

REMY AYESH
c/o Anne Schiavone
4600 Madison Ave. Ste. 810
Kansas City, MO 64112
Plaintiff,

v.

APARIUM HOTEL GROUP, LLC
c/o CSC Lawyers Inc. Serv. Co.
221 Bolivar Street
Jefferson City, MO 65101
Defendant.

CASE NO.: 4:20-CV-487

JUDGE:

DEFENDANT APARIUM HOTEL GROUP, LLC'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant Aparium Hotel Group, LLC ("Defendant"), by and through the undersigned counsel, hereby give notice of the removal of the above action from the Circuit Court of Jackson County, Missouri, to the United States District Court for the Western District of Missouri. As grounds therefore, Defendant states as follows:

1. On May 15, 2020, a civil action was commenced by Plaintiff Remy Ayesh in the Circuit Court of Jackson County, Missouri, where it was docketed as Case No. 2016-CV11956. In the Complaint, Plaintiff names Aparium Hotel Group, LLC as the Defendant. (Complaint). The Complaint alleges deprivation of Plaintiff's civil rights based on sex discrimination and retaliation in violation of the Missouri Human Rights Act ("MHRA"), Mo. Rev. Stat. § 213.010 and Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e *et seq.* (Complaint, ¶¶ 1, 58-88). A copy of the Complaint and Summons, which were served upon Defendant are attached hereto as Exhibit A.

2. A copy of the remaining process, pleadings, and orders from the Circuit Court of Jackson County, Missouri are attached hereto as Exhibit B.

3. This matter is being removed to Federal Court on the basis of federal question jurisdiction, under the provisions of 28 U.S.C. §§ 1331, 1441(a), and 1446. Plaintiff's second cause of action in the Complaint alleges violations of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e *et seq.* (Complaint, ¶¶ 74-89).

4. The Title VII (42 U.S.C. § 2000e) claim arises under federal law and is subject to federal question jurisdiction pursuant to 28 U.S.C. §1331.

5. This case is a civil action over which this Court has jurisdiction under 28 U.S.C. §1331; therefore, it is one that may be removed to this Court pursuant to 28 U.S.C. §§1441 and 1446 in that it raises a federal question.

6. Plaintiff's remaining request for relief alleges sex discrimination/harassment pursuant to the MHRA, Section 213.010 (2005), *et seq.* This remaining request for relief brought under Missouri state law arises from the same case or controversy giving rise to Plaintiff's request for relief under Title VII. Thus, this claim is within the Court's supplemental jurisdiction under 28 U.S.C. §1367. Specifically, both claims alleged in Plaintiff's Complaint arise out of the same common nucleus of operative facts; namely, alleged gender discrimination and harassment during Plaintiff's employment by Defendant at its Crossroads Hotel as the Executive Chef. Therefore, this Court has pendent jurisdiction over the state law claims raised in the Complaint, and the entire case may properly be removed to this Court. *See United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966); *Osborn v. Haley*, 127 S. Ct. 881, 896 (2007) (citing *Gibbs*).

7. Pursuant to 28 U.S.C. §1391, venue is appropriate in the Western District of Missouri.

8. Timing of Removal: Removal is appropriate because fewer than thirty (30) days have elapsed since Defendant was served with the Summons and Complaint on or about May 19, 2020. *See* 28 U.S.C. §1446(b); Exhibit B.

9. True and correct copies of this Notice of Removal with accompanying exhibits and Notice of Removal Directed to State Court are being served upon Plaintiff and filed with the clerk of the Circuit Court of Jackson County, Missouri, in accordance with the provisions on 28 U.S.C. §1446(d).

WHEREFORE, Defendant respectfully requests that the action now pending in the Circuit Court of Jackson County, Missouri be removed to this Court in accordance with the foregoing statutory provisions.

Dated: June 16, 2020

Respectfully submitted,

/s/ Mark B. Lehnardt

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Attorney for Defendant

Aparium Hotel Group, LLC

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2020, a copy of the foregoing was served by regular U.S. mail, postage pre-paid, upon:

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/s/ Mark B. Lehnardt

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Attorney for Defendant Aparium Hotel Group, LLC